

**BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF PESTICIDE REGULATION  
STATE OF CALIFORNIA**

In the Matter of the Decision of  
the Agricultural Commissioner of  
the County of Yolo  
(County File No. 008-ACP-YOL-00/01)

Administrative Docket No.107

**DECISION**

**GEORGE GREEN  
1419 Coolidge Drive  
Woodland, California 95776**

\_\_\_\_\_  
Appellant /

**Procedural Background**

Under Food and Agricultural Code (FAC) section 12999.5 and section 6130 of Title 3, California Code of Regulations (3 CCR), county agricultural commissioners may levy a civil penalty up to \$1,000 for certain violations of California's pesticide laws and regulations.

After giving notice of the proposed action and providing a hearing, the Yolo County Agricultural Commissioner found that the appellant, George Green, violated section 6614(b)(3) of Title 3 of the California Code of Regulations. The commissioner imposed a penalty of \$401 for the violation.

George Green appealed from the commissioner's civil penalty decision to the Director of the Department of Pesticide Regulation. The Director has jurisdiction in the appeal under FAC section 12999.5.

**Standard of Review**

The Director decides matters of law using his independent judgment. Matters of law include the meaning and requirements of laws and regulations. For other matters, the Director decides them on the record before the Hearing Officer. In reviewing the record, the Director looks to see if there was substantial evidence, contradicted or uncontradicted, before the Hearing Officer to support the Hearing Officer's findings and the commissioner's decision. The Director notes that witnesses sometimes present contradictory testimony and information; however, issues of witness credibility are in the province of the Hearing Officer.

The substantial evidence test requires only enough relevant information and inferences from that information to support a conclusion, even though other conclusions might also have been reached. In making the substantial evidence determination, the Director draws all reasonable inferences from the information in the record to support the findings, and reviews the record in the light most favorable to the commissioner's decision. If the Director finds substantial evidence in the record to support the findings and decision, the Director affirms the decision.

**3 CCR section 6614(b)(3)**

Section 6614(b)(3) prohibits a pesticide application being “made or continued when there is a reasonable possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of such property. In determining a health hazard, the amount and toxicity of the pesticide, the type and uses of the property and related factors shall be considered.”

There is information in the record that George Green made an aerial application of Warrior T to alfalfa field site EE1 at Joe Heidrick Farms on March 29, 2001. Alfalfa field site EE1 is adjacent to County Road 27, a half-mile east of County Road 102. During the application, a vehicle was traveling east on County Road 27. The Warrior T drifted onto the vehicle, covering the windshield. The driver’s window was partially down. The Appellant admitted during the hearing that the Warrior T went off target and hit the vehicle that was traveling on County Road 27.

After calling 911, the driver drove himself to the nearest emergency room. The pesticide illness report and the emergency room report indicate that the driver of the vehicle had burning in the back of his throat; itchiness in the eyes; and a period of wheezing, which resolved with his inhaler. The emergency department report indicates that the hospital staff initiated decontamination of the driver since they did not know the name of the pesticide to which the driver had been exposed. After consulting with poison control to determine a course of action, the hospital staff monitored the driver’s vital signs for several hours. The hospital environmental services staff contacted the county agricultural commissioner’s office to find out the name of the pesticide to which the driver of the vehicle had been exposed.

The label information in the record for Warrior T states that Lambda cyhalothrin is the active ingredient. The label also states “May be fatal if swallowed. Harmful if absorbed by skin. Causes moderate eye irritation. May cause allergic skin reactions. Avoid contact with eyes, skin, or clothing. Wash thoroughly with soap and water after handling and before eating, drinking, or using tobacco.”

There is information in the record that the laboratory analysis of swab samples taken by the county indicated that 22.6 micrograms of Lambda cyhalothrin were present on the vehicle that was sprayed. Since there was Lambda cyhalothrin on the vehicle, a reasonable inference is that the driver and passengers, if any, would touch the Lambda cyhalothrin getting in and out of the vehicle. The normal use of the vehicle was altered in this case, since the driver was exposed to Lambda cyhalothrin while commuting to work, went to an emergency room instead of to work, and would need to have the car cleaned to avoid touching the Lambda cyhalothrin on the car and restore the car to its normal use as a car that had not been contaminated with a pesticide.

A reasonable inference from the information in the record is that George Green's Warrior T application was made when there was a reasonable possibility of contamination of nontarget public property (i.e., the vehicle), including the creation of a health hazard, preventing normal use of the property.

### **Conclusion**

The record shows the commissioner's decision is supported by substantial evidence, and there is no cause to reverse or modify the decision.

### **Disposition**

The commissioner's decision is affirmed. The commissioner shall notify the appellant how and when to pay the \$401 penalty for its violations of 3 CCR section 6614(b)(3).

### **Judicial Review**

Under FAC section 12999.5, the appellant may seek court review of the Director's decision within 30 days of the date of the decision. The appellant must bring the action under Code of Civil Procedure section 1094.5.

**STATE OF CALIFORNIA**  
**DEPARTMENT OF PESTICIDE REGULATION**

By: original signed by  
Paul E. Helliker  
Director

Dated: April 18, 2002